
1992 Wis Eth Bd 15
IMPROPER USE OF OFFICE; LEGISLATORS; USE OF STATE'S TIME,
FACILITIES, SUPPLIES AND SERVICES

The Board advises that statutes administered by the Ethics Board do not prevent a state legislator from using legislative staff and facilities to communicate with the news media about the legislator's lawsuits against the State of Wisconsin concerning issues involving the operation of state government. OEB 92-15

March 27, 1992

Facts

[1] This opinion is based upon these understandings:

- a. You are a state senator and a party in lawsuits brought against the State of Wisconsin concerning the interpretation of the state constitution and state laws.
- b. You want to use your staff and office facilities to communicate with the news media concerning the lawsuits.

Question

[2] The Ethics Board understands your question to be:

To what extent, if any, do laws administered by the Ethics Board restrict a legislator's using legislative staff and facilities to communicate with the news media about the legislator's lawsuits against the State of Wisconsin?

Discussion

[3] Wisconsin's Code of Ethics provides that no state public official may use his or her public position or office to obtain anything of substantial value for his or her private benefit or to gain unlawful benefits, advantages or privileges for himself, herself or others. Sections 19.45(2) and (5), *Wisconsin Statutes*.

[4] Wisconsin law clearly establishes that state funds and resources may only be used for public purpose of state-wide concern. See, e.g., *Wisconsin Solid Waste Recycling Authority v. Earl*, 70 Wis. 2d 464 (1975); *State Ex Rel. Wisconsin Development Authority v. Dammann*, 228 Wis. 147 (1938); 72 OAG 172 (1983); 66 OAG 43 (1977). The test to be applied is whether the expenses

arise independently of official functions or because of them. 12 Op Eth Bd 1 (1990); 9 Op Eth Bd 1,2 (1985); 5 Op Eth Bd 49 (1981).

[5] The lawsuits about which you ask concern issues of state operation. They involve the constitutional power of state officials as well as the proper or improper use of state money. For these reasons, it is the Ethics Board's opinion that the dissemination of information concerning the status of the lawsuits serves a public purpose.¹

Advice

[6] The Board advises that statutes administered by the Ethics Board do not prevent a state legislator from using legislative staff and facilities to communicate with the news media about the legislator's lawsuits against the State of Wisconsin concerning issues involving the operation of state government.

¹ In contrast to the actions and circumstances about which you have asked would be an official's use of state facilities, supplies, or services in furtherance of a private lawsuit seeking monetary damages, or one devoid of issues of public policy. An official's use of public position in such circumstances would likely be contrary to § 19.45(2), *Wisconsin Statutes*.